

## **REMARKS**

Claims 16, 18-25, 27, 29-36, 42, 45, 37, 48 and 51-54 are pending in the application. Claims 42, 48 and 51-54 have been amended. Claims 43, 44, 46, 49 and 50 have been canceled without prejudice or disclaimer, claims 1-15, 17, 26, 28 and 37-41 having been previously canceled. Reconsideration of this application is respectfully requested.

Applicants appreciate the Examiner participating in a telephone interview with Applicants' attorney on November 15, 2006. During the course of the interview, the Examiner explained how independent claim 42 was being read on U.S. Patent No. 6,625,567 to McMahan, hereafter McMahan. The Examiner indicated that independent claims 42, 48 and 51-54 would be allowable if rewritten to incorporate the subject matter of claims 43 and 44 and to avoid a problem under 35 U.S.C. 101. Although the claims have not been rejected under 35 U.S.C. 101, the Examiner indicated that the claims must also be amended to avoid any such problem, citing the MPEP, section 2106.

Independent claims 42, 48 and 51-54 have been amended in the manner suggested by the Examiner. Since amended independent claims 42, 48 and 51-54 are all of the currently pending independent claims, it is submitted that the amendment obviates the rejection under 35 U.S.C. 103(a) and should be withdrawn and that all of the claims 16, 18-25, 27, 29-36, 42, 45, 37, 48 and 51-54 are now allowable.

Section 2106 of the MPEP has been reviewed. It is submitted that amended independent claims 42, 48 and 51-54 are statutory in terms of 35 U.S.C. 101.

Independent method claim 48 recites a method of using a computer to process output data of an industrial process. The computer is operated with a framing program that defines a data structure based input data entered by a user, uses the data structure to store the output data of the industrial process in a database and responds to a request that identifies a first attribute of a first activity that frames an event by using the data structure to retrieve the event data by accessing the output data of the industrial process in the database. This operation of the activity framing program does not constitute an abstract idea, law of nature or a natural phenomenon. To the extent that the activity framing program can be so construed to involve an abstract idea, law of nature or a natural phenomenon, it is noted that the method recites a real world application of treating output data of an industrial process in such a manner that it can be retrieved for specific events with a request that identifies a attribute of an activity that frames the event.

Independent method claim 52 also recites a method of using a computer to process output data of an industrial process. Method claim 52 recites the retrieval of the event data from a database in which the output data of the industrial process is stored according to the data structure and the request for retrieval is as recited in independent method claim 48.

This application is a contribution to the advancement of the sciences that avoids the lengthy procedure of reading the time series output data of the process from a database and then filtering it to find the event data of interest. Moreover, method claim 48 recites that the activity program operates the computer to define a data structure for the industrial process that is used to transform the storage and retrieval of the output data to achieve the goal of simplifying the storage and retrieval of time series data of an industrial process.

The application recited in independent method claims 48 and 52 produces a useful, tangible and concrete result of the storage and retrieval of time series

output data of an industrial process for an operator of the industrial process either in the form of the retrieved event data or in the form of a report that uses the retrieved event data. Accordingly, it is submitted that independent method claims 48 and 52 recite a statutory process in terms of 35 U.S.C. 101.

Computer apparatus claims 42 and 53 recite a machine and, therefore, qualify as statutory under 35 U.S.C. 101, the judicial exceptions mentioned in MPEP 2106 being concerned only with process claims.

It is noted that independent apparatus claims 42 and 53 recite a data structure, but the data structure is recited in combination with other elements/steps that together recite a real world application. That is, independent apparatus claims 42 and 53 do not recite only a data structure as recited in claim 6 of the Warmerdam application, In re Warmerdam, 1754 USPQ 1760, 1757, 1760. Thus, independent apparatus claims 42 and 53 are statutory under 35 U.S.C. 101.

Independent memory media claims 51 and 54 have been amended to recite a “memory media comprising a computer readable activity framing program that when executed on a computer controls said computer to process output data of an industrial process”. It is submitted that amended independent memory media claims 51 and 54 recite an article of manufacture and are, therefore, statutory under 35 U.S.C. 101.

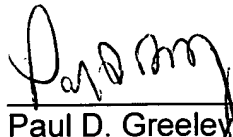
It is respectfully requested for the reasons set forth above that the rejection under 35 U.S.C. 103(a) be withdrawn, that claims 16, 18-25, 27, 29-36, 42, 45, 37, 48 and 51-54 be allowed and that this application be passed to issue.

For the reasons set forth above, it is submitted that this amendment places the application in condition for allowance. Accordingly, it is respectfully requested that this application be allowed and passed to issue. If this

amendment is deemed to not place the application in condition for allowance, it is respectfully requested that it be entered for the purpose of appeal.

Respectfully Submitted,

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